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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,266	06/13/2001	Maria Selene Lugo Saucedo	32944-00043USPT	5378

27045 7590 03/28/2005

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EXAMINER	
PEACHES, RANDY	
ART UNIT	**PAPER NUMBER**
2686	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/880,266	SAUCEDO ET AL.	
	Examiner	Art Unit	
	Randy Peaches	2686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 January 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 9-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/14/2005 has been entered.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-7 and 9-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over ***claims 1 and 24*** of Valentine et al. (U.S. Patent No. 6,356,751) (hereinafter '751) in view of Choi et al (U.S. Patent Number 6,594,492 B2) (hereinafter '492). Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant application and '751 in view of '492 claims the same subject matter. The common subject matter is method of managing an emergency call between a subscriber, wherein an emergency situation is realized during an ongoing call. The parties involved, contacts an emergency service center wherein the three parties are then engaged in a three-way conversation.

Regarding ***claims 1, 9 and 13*** and dependents on ***claims 2-7, 10-12***, ***and 14*** the claims have similar and/or exact limitations as the ***claims 1 and 24***. See '751.

However, '751 fail to clearly specify sending and receiving the said geographic position to an anchor entity, and setting up an emergency between the entities.

'492 teaches in columns 6 and 7 lines 58-67 lines 6-12 of:

- sending the current location to the anchor exchange (504);
- setting up the emergency call, see column 4 lines 30-34, between the said anchor exchange and the said Emergency Call Center (50), which reads on

claimed "Emergency Service Entity". See FIGURE 5. Wherein the current geo-position information is included in the information request message, which reads on claimed "call setup message." See '492 column 5 lines 58-67.

Hence, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings '751 to include '492 in order to provide the said party's geographic coordinate/location in reference to the said party's current location when the information is requested from a calling party.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. ***Claims 1, 9 and 13*** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bilder (U.S. Patent Number 6,292,542 B1) in view of Garin et al. (U.S. Patent Number 6,671,620 B1).

Regarding ***claims 1, 9 and 13***, Bilder discloses a method for accessing emergency services within a network while an ongoing call is being taken place initially, wherein the network includes a LEC (2-1,2-2) and an IXC (3), which reads on claimed "serving entity

and an anchor entity," and an Emergency Service Entity, the method comprises the steps of (see column 11 lines 24-26):

- handing off the on-going call from the said LEC (2-1,2-2)
- responsive to an emergency condition, the subscriber invoking the said ESC via a 3-way calling while maintaining the on-going call. See column 5 lines 3-18;
- receiving a request for the ESC at the said LEC (2-2,2-1). See column 5 lines 25-30;
- sending the current geographic position to the said LEC or IXC. See column 4 lines 39-52;
- setting up the ESC between the said LEC/IXC and the ESE, wherein the said geographic position is included in the routing information. See column 4 lines 31-35 and lines 62-67.

However, Bilder fails to disclose wherein a Position Determining Entity is used to determine the position of the said subscriber.

Garin et al. teaches in column 3 lines 35-65 wherein receiving a request for a current position of the subscriber at the PDE and determining the position of the said subscriber.

Therefore, at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify the teachings Bilder (U.S. Patent Number 6,292,542 B1) in view of Garin et al. (U.S. Patent Number 6,671,620 B1) in order to establish a third party emergency call in parallel with a on-going conversation with a first and second party call. In addition, develop a method to where the elements of the said

network are able to locate a second party in through the continued communication link of the on-going said first and second party's conversation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (703) 305-8993. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on (703) 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Randy Peaches
March 16, 2005

Marsha D Banks-Harold
MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
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